

FILED
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U.S. DISTRICT COURT E.D.N.Y.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

★ JUN 02 2009 ★

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AVROHOM SEBROW,
individually and on behalf of a class,

LONG ISLAND OFFICE

Plaintiffs,

COMPLAINT - CLASS ACTION
CV-09 2320

v.

BETHPAGE FEDERAL CREDIT UNION

Defendant.
-----X

GLASSER, J.

GO, M.

INTRODUCTION

1. Plaintiff, Avrohom Sebrow, brings this action against defendant Bethpage Federal Credit Union, for violation of the Electronic Funds Transfer Act.

JURISDICTION AND VENUE

2. This Court has jurisdiction under 15 U.S.C. §1693m (Electronic Funds Transfer Act), 28 U.S.C. § 1337.

3. Venue is proper in this District because defendant does business here and all events at issue occurred here.

PARTIES

4. Plaintiff is a resident of New York.

5. Defendant is a federally-chartered corporation with offices in this District.

FACTS

6. Defendant operates an automated teller machine (ATM) at 11 Davis Avenue, Garden City, New York 11530.

7. On May 15, 2009, plaintiff used the ATM.
8. Plaintiff is not a regular customer of defendant.
9. There was no notice at or near the ATM that a fee would or may be charged. A series of the photographs of the ATM are in Exhibit A.
10. Defendant's machine charged plaintiff \$2.50. A redacted copy of the receipt issued to plaintiff is attached as Exhibit B.

VIOLATIONS COMPLAINED OF

11. The Electronic Funds Transfer Act, 15 U.S.C. §1693b(d) ("EFTA"), and implementing Federal Reserve Regulation E, 12 C.F.R. § 205.15, require an ATM operator such as defendant to provide notice to consumers that the operator will or may impose a fee on consumers for conducting a transaction at an ATM. One notice must be posted on or near the ATM. This notice is in addition to any that appear on the ATM screen.
12. The EFTA, 15 U.S.C. §1693b(d)(3)(c), and Regulation E, 12 C.F.R. §205.16(e), prohibit the imposition of a fee for using an ATM if the notice requirements are not met.

CLASS ALLEGATIONS

13. Plaintiff brings suit on behalf of a class, pursuant to Fed.R.Civ.P. 23(a) and (b)(3).
14. The class consists of (a) all persons (b) who on or after a date one year prior to the filing of this action, and on or before a date 20 days after filing of this action (c) were charged a fee for use of defendant's ATM at 11 Davis Avenue, Garden City, New York 11530.
15. The number of class members is so numerous that joinder is

impracticable.

16. On information and belief, there are more than 50 persons who on or after a date one year prior to the filing of this action, and on or before a date 20 days after filing of this action were charged a fee for use of defendant's ATM at 11 Davis Avenue, Garden City, New York, 11530.

17. There are questions of law and fact common to the class which predominate over any questions affecting only individual class members. The common questions include:

- a. Whether defendant's ATM was posted with a notice.
- b. Whether defendant violated the EFTA.

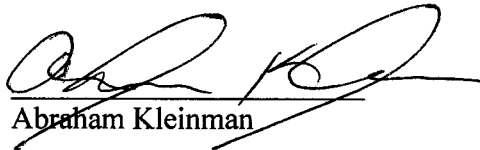
18. Plaintiff's claims are typical of the claims of the class members. All are based on the same facts and legal theories.

19. Plaintiff will fairly and adequately protect the interests of the class. Plaintiff has retained counsel experienced in class action and consumer credit litigation.

20. A class action is superior to other available methods for the full and efficient adjudication of the controversy. Individual actions are not economically feasible.

WHEREFORE, the Court should enter judgment in favor of plaintiff and the class and against defendant for:

- a. Statutory damages;
- b. Actual damages;
- c. Attorneys' fees, litigation expenses and costs of suit; and
- d. Such other relief as this Court deems proper.



Abraham Kleinman

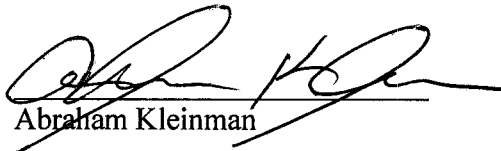
Abraham Kleinman
KLEINMAN, LLC
626 RexCorp Plaza
Uniondale, New York 11556-0626
(516) 522-2621
(888) 522-1692 (FAX)

Daniel A. Edelman
Cathleen M. Combs
EDELMAN, COMBS, LATTURNER
& GOODWIN, LLC
120 S. LaSalle Street, 18th Floor
Chicago, Illinois 60603
(312) 739-4200
(312) 419-0379 (FAX)

Pro hac vice admission to be applied for.

JURY DEMAND

Plaintiff demands trial by jury.



Abraham Kleinman

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EXHIBIT A



Attention Long Islanders – you're now eligible to join Bethpage Federal Credit Union!

Become a member and discover what Banking among friends® is all about:

- High yields on savings • our rates beat the banks!
- Lower rates and fees on loans • Plus, no predatory interest rates!

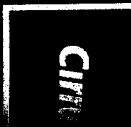
Join today! For a membership kit, simply

- Visit www.bethpagefcu.com, and select "Join Bethpage"
- Call 1-800-628-7070 • Stop by any branch



Bethpage
Federal Credit Union

Bethpage, New York 11702



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B
Bethpage
Federal Credit Union



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- Stop by any b



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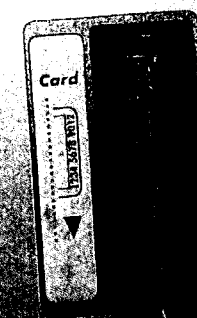


EXHIBIT B

Redacted



BETHPAGE FEDERAL
CREDIT UNION

05/15/09 04:21PM [REDACTED]

11 DAVIS AVE - MUSEUM LAN
GARDEN CITY NY

[REDACTED]

[REDACTED]	\$40.00
ATM OWNER FEE	\$2.50
TOTAL	\$42.50
CHECKING WITHDRAWAL	

All transactions are subject to proof and verification.